

Testimony of the National Indian Child Care Association  
Before the United States Senate  
Committee on Indian Affairs

Implementation and reauthorization of the Personal Responsibility and Work  
Opportunity Reconciliation Act of 1996

Presented by:

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Mr. Chairman and Members of the Committee:

My name is Julie Quaid; I am the Chairperson of the National Indian Child Care Association. The Association is the representative body of Tribal grantees of the Child Care and Development Block Grant. Two hundred sixty two grantees, representing more than 500 tribes and tribal organizations, received Child Care and Development Block Grant funds in 2002.

I would like to thank you for the opportunity to join you today to share comments from the National Indian Child Care Association about the importance of quality child care in Indian country. We appreciate your commitment to insuring that the needs of our tribal children and families are not overlooked during the reauthorization of welfare reform legislation and the Child Care and Development Block Grant Act.

The United States Government affirmed its trust responsibility toward American Indians and Native Alaskans through direct funding of the Child Care and Development Block Grant to tribal governments, supporting tribal sovereignty and local control of programs for tribal citizens. Tribes must continue to administer these programs to meet the unique needs of tribal communities. As the Child Care and Development Block Grant is reauthorized we urge you, the members of the Senate Committee on Indian Affairs to demonstrate your leadership in insuring that all provisions in proposed child care reauthorization bills will insure direct access to funds for tribes.

Since the passage of the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, new investments in child care have given tribes the opportunity to expand their child care programs. We find however, that these

investments are not sufficient to meet the needs of Indian families. Nationally, statistics indicate that only one in seven children eligible for assistance is receiving help.

The child care coordinator from a tribe in California indicates that the tribe has only enough funding to operate a child care facility for 15 children, yet close to 400 children in the community could benefit from a tribally operated child care program.

With a poverty rate approaching 50% in Indian country, and nearly 54% of Indian children being born to unwed mothers, child care funding is critical to families who are working and transitioning off public assistance to pursue work and educational opportunities. Helping pay for child care is critical to some low income families' ability to obtain and retain employment.

30% of tribal grantees receive less than \$60,000 annually to provide child care services. 45% of tribes receive less than \$100,000 in federal child care funding. With current funding levels, tribes are struggling to provide financial assistance to low income families and insure that children are in much needed quality environments. The cost of care nationally, averages \$4,000 to \$10,000 per year for a preschool child. It is evident that current funding is significantly inadequate to meet the needs of the Indian community.

Tribes currently receive from 1 to 2% of the Child Care and Development Block Grant funds. The number of tribes participating in CCDBG has increased from 226 in 1994 to 262 in 2002, tribal child counts continue to increase each year as tribal populations grow. The 1995 U.S. Census Report of Population Projections indicates that the American Indian Population is expected to make up an increasing share of the U.S. population. As the population continues to grow, an increasing number of Indian families

will be in need of child care services, for without adequate child which enables parents to work, the aim of self sufficiency for families will not become a reality. An increase in the tribal set aside is essential for continued services.

Cherokee Nation in Oklahoma is currently providing assistance with the cost of child care to over 3,000 children's families annually, so that they can continue to work. In FY 2001 the Cherokee Nation's monthly family caseload increased by an average of 26%, current funding levels will not allow the continuation of the same level of service. The tribal child care administrators are currently in the process of developing new eligibility guidelines for families, raising income guidelines and family share for the cost of care so that they will not be forced to develop a waiting list for families needing support to maintain employment. This places a huge financial burden on families who are already struggling to make ends meet, the working poor.

Unlike states, which rely heavily on transfer funds from TANF, and use funding from the state tax base to supplement child care services, most tribes rely solely on the CCDBG for child care funds. Without additional funding, tribal governments will be unable to continue to provide assistance to eligible families and to ensure that all families have access to quality child care.

Already tribes have been forced to make cuts in tribal programs, a tribe in New Mexico had to eliminate all school-age care last year due to limited funds. Even though they gave advanced notice to families, alternate care options were not available in this community. Many of those children who had been in appropriate school age environments, became "latch key" kids or were placed in substandard care.

The United States government, through the Constitution, treaties, Supreme Court decisions, executive orders, and existing federal policies recognized the right of tribes to self govern. In 1996, during the reauthorization of the Child Care and Development Block Grant, law was enacted which is in direct violation of tribal sovereign powers.

The Child Care and Development Block Grant Act, as amended states that, “ the Secretary [of Health and Human Services] in consultation with tribes and tribal organizations, shall develop minimum health and safety standards...” The National Indian Child Care Association strongly supports the assurance that Indian children are in healthy and safe environments, however tribal governments must be the final authority in determining and developing the contents of the standards by which the facilities under their jurisdiction are governed. The United States Government allows all 50 states the discretion of developing their own health and safety standards, yet has chosen to impose standards for tribal governments. Not only is this an imposition on tribal sovereignty, it is unrealistic to believe that one set of standards would be appropriate for 262 tribal grantees, ranging in geographic location from Alaska to Florida.

The National Indian Child Care Association Advocacy Agenda for 2002 details additional provisions of reauthorization supported by the membership. The agenda includes the top seven recommendations voted on by the membership. I am requesting to submit the paper as part of this testimony.

Although our agenda did not speak directly to the provisions of quality care we recognize that there has been growing research and national attention focused on the impact of children’s early experiences and their ability to learn and succeed when they enter school. With 65% of women with children under the age of six in the workforce, an

increasing number of children are spending their early years in child care. As poverty rates in Indian country approach 50%, Indian children are at greater risk of poor educational performance. Children of low income families score significantly lower on reading, math, and vocabulary tests when compared with otherwise children. Quality care child care experiences can significantly impact the abilities of Indian children to be successful later in life, yet with limited funding, tribes must often make choices between affordability and quality of child care for low income families. With insufficient CCDBG dollars, we must choose between offering financial assistance to low income families who need help paying for care and supporting activities to enhance the quality of child care and insure our children are in programs which provide for their positive development.

Tribes are currently required to spend a minimum of 4% of funds on quality activities. We use these funds to monitor facilities to insure that children are in safe environments, provide information and referral to parents in need of child care, train child care staff, offer grants so that child care facilities can make needed improvements to meet standards of care and other activities to improve the quality of care for Indian children. Sufficient funding should be available to help tribes ensure that Indian children are in high quality care, and not choose between quality and the cost to families.

I thank you for this opportunity to share with you the challenges that face Tribal communities as we put forth effort to insure that tribal families have the necessary tools to become self sufficient. Child care is a critical component in these efforts. Funding must be increased to help more low income Indian families afford good care, and to work toward improving the quality of care which is critical to our children's development and

future success. We ask that you acknowledge the sovereignty of tribal governments and the U.S. trust responsibility as you make important decision in child care.

# **NATIONAL INDIAN CHILD CARE ASSOCIATION**



## **ADVOCACY AGENDA 2002**

## **National Indian Child Care Association**

The National Indian Child Care Association is the recognized representative body of the Tribal Child Care and Development Block Grant Grantees. The Association was developed in 1993 to provide information, support, coordination and advocacy for Tribal child care.

Two hundred sixty-two Tribes and Tribal Organizations, representing more than five hundred Tribal governments received Child Care and Development Block Grant Funds in FY 2002. The Child Care and Development Block Grant is the single largest program authorized under the Personal Responsibility and Work Opportunities Reconciliation Act affecting tribal governments.

Participation in the Child Care and Development Block Grant allows Tribal governments the opportunity to design, implement and support programs which are beneficial to the unique needs of our tribal citizens. Child Care is an important support services to assisting Indian families to become self sufficient through education, training and employment.

This document entitled National Indian Child Care Association Advocacy Agenda – 2002, sets forth seven major goals for reauthorization of the Child Care and Development Block Grant which have been adopted by the Association.



## **Key Information Tribal Child Care Programs**

- ◆ 262 Grantees, representing over 500 tribes and tribal organizations received Child Care and Development Block Grant (CCDBG) funds in FY 2002, with tribal allocations totaling approximately \$91 million, 2% of the Child Care and Development Block Grant.
  
- ◆ Of 131 tribes who reported, 18,755 children received financial assistance from CCDBG funds in FY 2000.
  
- ◆ According to Tribal Preprint Plans, additional services provided by CCDBG funds include child care referral for parents, resources for child care providers, grants and loans to assist providers in meeting standards, monitoring child care facilities for compliance with standards, training and technical assistance, consumer education and additional activities to improve the quality of child care.
  
- ◆ In FY 2001, the tribal child count submitted by Child Care and Development Tribal Grantees indicates that there are approximately 480,000 Indian children residing in tribal service areas.
  
- ◆ In FY 2001, Tribes and Tribal Organizations received approximately \$90 million to provide child care for Indian children.
  
- ◆ Since 1997, Tribes and Tribal Organizations have constructed or renovated 70 facilities to provide care for Indian children.
  
- ◆ In addition to tribally operated child care facilities, tribal child care programs contract with licensed child care centers, family child care homes, and relative providers to care<sup>ii</sup> for eligible Indian children.

## **GOVERNMENT TO GOVERNMENT**

### **ISSUE: #1**

Tribes must continue to receive direct funding from the federal government to provide child care services.

The United States Government has a trust responsibility toward American Indians and Alaskan Natives, and interacts with the tribes on a government-to-government basis. Direct funding to tribes supports tribal sovereignty and local control of programs for tribal citizens.

Indian tribes have demonstrated the ability to administer Child Care and Development Block Grant programs successfully and must continue to administer these programs per tribal services plan that meets the unique needs of tribal communities.

#### **Current Legislative Status:**

Section 418 of Title IV of the Social Security Act, (42 U.S.C. 618) and the Child Care and Development Block GRANT Act of 1990, as amended, authorizes a set aside for direct government-to-government grants to Indian tribes and tribal organizations.

#### **Legislative Recommendations:**

Retain legislative language, which provides for a set aside for direct grants to tribes and tribal organizations. Increase child care funding levels and add language that would require any new child care appropriations to include a tribal set aside.

## **5% FUNDING**

### **ISSUE: #2**

**The number of Tribal Child Care Programs receiving funding through the Child Care and Development Block Grant has increased. The percent of set aside for tribes is currently 2% of the funding for the CCDF and has remained the same although services rendered by tribal child care programs have significantly increased. Increased funding to tribes is necessary to meet the child care needs of tribal citizens.**

Tribes and tribal organizations currently receive two percent of the appropriation of the Child Care and Development Block Grant. There are 515 federally recognized tribal entities, which may be potentially eligible participants in the CCDBG program. Tribal grantees participating in the CCDBG have increased from 226 in 1994 to 262 in 2002.

Indian Health Services indicates a client increase of about 2% per year. The 1995 US Census Report of Population Projection indicates that the American Indian Population is expected to make up an increasing share of the US population. The Indian population is younger than the corresponding population for all races, 33% of the Indian population was under 15 compared to 22% for all races.

The number of children that are counted for purposes of CCDBG allocations continue to increase. As more tribal grantees participate in the CCDBG program and as the number of children increase, the allotment amount per child decreases. This is particularly detrimental to existing programs, which must reduce funding of all child care services to Indian families. This greatly affects the children of the families that are working to transition off of public assistance programs through work and educational opportunities.

With a poverty rate approaching 50% in Indian Country, an unemployment rate of about 35%, and nearly 54% of all Indian children being born to unwed mothers, child care services provided for under the Child Care and Development Fund are critical. Greater demands for child care are being placed on Tribal child care programs as a result of increasing population, increasing employment and education opportunities, and the time line for TANF as well as the higher poverty rates.

Direct services of child care implemented by Tribal programs help to alleviate the long waiting list for quality child care space. Demands for Tribal child care programs are high given the affordability, quality of care, and cultural sensitivity implemented in Tribally operated child care programs. As some tribes make better use of their construction and renovation funds and build more child care

facilities, tribes will need additional funding to provide services in these areas of development.

Although demands on the tribal resources have increased, tribes do not have access to additional funding. States have a tax base that generates funds for necessary programs. States also have access to federal funding sources not appropriated to tribes that may be used for child care assistance, such as Title XX and additional discretionary funds earmarked for quality expansion, infant and toddler care, and resource and referral services.

**Current Legislative Status:**

Section 603 (b) of the PRWORA amended Part A of Title IV of the Social Security Act and the Child Care and Development Block Grant of 1990, by adding: Section 418 (a)(4) Part A of the Social Security Act, which states: “Indian Tribes – The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.”

**Legislative Recommendation:**

Amend the language in Child Care and Development Block Grant of 1990 and Section 418(a)(4) Part A of the Social Security Act to “not less than 5 percent.” Include language that would require any new child care appropriations to include a tribal set aside.

## HEALTH & SAFETY FUNDING

### ISSUE: #3

The Child Care and Development Block Grant mandates tribes to enforce government issued minimum health and safety standards. Additional resources are needed to comply with legislative mandates.

Tribal programs provide funding to pay for child care in family child care homes and child care centers. Requiring Tribes to enforce health and safety standards that were developed by the federal government places a financial burden on tribal child care programs. It requires that tribes hire and train additional staff to monitor compliance with standards. Tribes must also provide financial resources to assist child care providers in meeting minimum standards. Many providers live in remote rural areas. Many smaller tribes only have one or two staff persons that are required to administer the entire program. Additional funding would be needed to pay for staff and expenses to monitor the compliance of the federally mandated health and safety standards.

Minimum Health and Safety Standards developed by the Secretary are in the process of being developed and implemented. The current legislation states that the standards will “appropriately reflect tribal needs and **available resources.**” However, the standards that have been developed will require that Tribes spend additional resources to ensure the accountability of child care providers implementing the proposed health and safety standards. Tribes do not have additional resources for Health and Safety, such as a state’s tax base, Title XX, and the additional discretionary funds. Requiring tribes to implement the proposed Health and Safety Standards developed by the Secretary is an unfunded mandate.

#### Current Legislative Status:

The Child Care and Development Block Grant Act of 1990, as amended, states, “the Secretary in consultation with Indian Tribes and tribal organizations shall develop minimum health and safety standards (though no funding allocation was made to ensure that tribes have available resources).

#### **Legislative Recommendation:**

Provide additional funding to ensure the implementation of health and safety standards for Tribes.

## **HEALTH & SAFETY STANDARDS**

### **ISSUE: #4**

#### **Indian Tribes and Tribal organizations should develop minimum Health and Safety Standards to be implemented by Tribal programs.**

The United States Government, through the Constitution, treaties, Supreme Court decisions, Executive Order, statute and existing federal policies, recognizes the rights of tribes to self-government and those Indian tribes have inherent sovereign powers over their members. Through Executive Order 13175, issued November 6, 2000, Coordination and Consultation with Indian Tribes, states that "When undertaking to formulate and implement policies that have tribal implications agencies shall: 1) encourage Indian tribes to develop their own policies to achieve program objectives, 2) where possible, defer to tribes to establish standards." The current language in the Child Care and Development Block Grant, as it relates to the development of health and safety standards, is in direct conflict with the executive order.

Tribal entities should be the final authority on what types of issues need to be addressed to ensure the health and safety of their children. States develop minimum health and safety and licensing requirements that allows each state maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such state. Tribal governments should be afforded that same flexibility. One set of health and safety standards do not exist for 50 states. It is unrealistic to think that one set of standards is going to be appropriate for 262 tribal grantees (from more than 500 tribes).

#### **Current Legislative Status:**

The Child Care and Development Block Grant Act as amended, states that "...the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards..."

#### **Legislative Recommendation:**

**Amend the language in the Child Care and Development Block Grant by striking out the language that reads: "the Secretary, in consultation with."**

**Amend the Child Care and Development Block Grant to allow tribes to develop standards, which may be approved by the Secretary.**

## CHILD NUTRITION

### ISSUE: #5

Tribal children in private child care centers that are receiving tribal subsidies should have access to the Child and Adult Care Food Program (CACFP).

#### Current Legislation:

**The Child Nutrition Improvement Act of 1992 (P.L. 102-342) states that child care centers must have at least 25% of the enrolled children or 25% of the licensing capacity receiving Title XX assistance before the center is eligible for the Child and Adult Care Food Program (CACFP). Tribal grantees do not receive Title XX funds. Therefore, tribal children do not count towards the eligibility determination for participation in the food program.**

#### Legislative Recommendation:

Continue legislative language as authorized in the Miscellaneous Appropriations Section (H.R. 5666) of P.L. 106-554, changing participation requirements to allow child care centers to participate in the CACFP if 25 percent of their enrolled children are eligible for the free and reduced-price lunch. Amend section 17(a) of the National School Lunch Act (42 USC 1766(a) by striking the reference to the Title XX assistance and reading “a private organization can participate in the food program if at least 25 percent of children are eligible for the free and reduced lunch.”

## CONSTRUCTION & RENOVATION

### ISSUE: #6

Tribal programs have the option of allocating a portion of their funding for the construction or renovation of child care facilities as long as such an allocation does not reduce the level of current services offered by the Tribe. Provisions must be made for the continuation of long range construction plans when funding levels decrease.

**Tribes, as well as the whole country, have a dire need for quality child care slots especially in the area of infants and toddlers, special needs and after hours care. The waiting list for child care slots is long. Few facilities exist in Indian Country that are suitable for child care. Tribal programs seek to be pro-active in their child care needs assessments and alleviate the immediate need for spaces for our children to be cared for. Tribes assess the needs for families in the future in regards to child care demands and work towards accomplishing their goals.**

**The level of funding for CCDF is not a constant. Levels increase and decrease. A tribe may have long range plans, using multiple years of funding, to develop and construct a child care facility to care for children in their tribe. When the level of funding for a particular year decreases, tribes are unable to use funds for construction without the level of service delivery decreasing. Tribes must have the ability to plan and carry out their long-range goals if the level of funding decreases for a particular year.**

Current Legislation:

**The Child Care and Development Block Grant Act of 1990, as amended, limits Tribes' use of funds for construction and renovation of child care facilities if it will decrease their level of services from the previous year.**

Legislative Recommendation:

42 USC 9858m(c)(6)(C) is amended by deleting "The Secretary" and substituting "Except as set forth within, the Secretary" and by adding the following new sentence: "The Secretary may permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation even when such activity will result in a temporary decrease in the level of services, as set forth in the first sentence, when such construction or renovation is made pursuant to provision of increased future child care services and is made pursuant to a multiyear construction or renovation plan, approved by Secretary."

## BASE AMOUNT

### ISSUE: #7

Tribal base amount is essential to maintain and administer Child Care and Development Fund programs. However, the determination for the base amount must be equitable.

**The Child Care and Development Block Grant includes a base amount as determined by the Secretary to ensure sufficient funding for child care operations. The formula for deriving the base amount for Tribal grantees is not equitable. Smaller tribes receive minimal per child funding through the formula grant process. It is necessary for these smaller tribes to receive a base amount to be able execute the delivery of services in an appropriate manner. The tribal base amount can be used to supplement allocated per child funds to meet child care service needs. The base amount received by tribal consortiums is disproportionate to the base amount for individual tribal grantees. The determination of the base amount should be adjusted to equitably distribute the amount a consortium receives vs. the amount an individual tribal grantee receives.**

Current Legislation:

**None. However, Federal Regulation 98.61(c)(1)(i) states, “a base amount set by the Secretary.”**

Legislative and Administrative Recommendation:

The determination of a base amount for tribal grantees should be made through a negotiated rulemaking process in consultation with tribal representatives to ensure an equitable division of resources.

